# Draft Equality Impact Assessment (Level 2)

## Section 1: Project overview

| Project title: English language proficiency review | |
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| Name of assessor: Madeleine Connor | Version: V2 |

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**What are the intended outcomes of this work?**

This work is intended to strengthen our approach to ensuring international applicants are able to speak English proficiently, supporting our statutory objective of public protection and maintaining public confidence in the ability of those professionals on our register to practise safely and effectively.

We anticipate the proposals will improve our processes for evidencing the English language proficiency of international applicants and ensure our processes continue to be robust, consistent and proportionate. They will also align us (where appropriate) with the approach taken by other professional regulators, including the General Medical Council (GMC) and the Nursing and Midwifery Council (NMC).

*Background*

The ability to communicate in English is a key requirement to providing safe and effective practice for professionals working with service users in the UK. Our English language <u>requirements</u> set out how applicants applying via the international route can demonstrate their ability to meet this requirement.

Our current process allows applicants to make a self-declaration that English is their first language and the language they use predominantly on a day-to-day basis. We also accept test scores from recognised English language test providers such as IELTS and TOEFL, as well as other tests that are comparable and in line with our Standards of proficiency.

Other regulators in health and social care have recently updated their English language proficiency requirements. The GMC made a minor update to its policy in 2021 to allow applicants to sit an online test before taking its Professional and Linguistic Assessments Board (PLAB1) test. The NMC has made comprehensive changes to its requirements to offer mitigations to applicants who narrowly miss the required test results, and allow 'Supporting Information From Employers' (SIFE) as a form of evidence.

Whilst the General Dental Council (GDC) does allow evidenced self-declaration from those whose qualifications come from the European Economic Area (EEA), our research into the policies or guidance of other regulators shows that HCPC's requirements are unique in allowing self-declaration of English proficiency on the basis of it being a first language, and also unique in respect of allowing an option for self-declaration to all international applicants.

*Proposals*

We propose removing the option for applicants to self-declare that English is their first language and replace it with a list of countries (maintained by HCPC) where English is used as

a main language. Applicants who have earned their primary qualification in a country on this list will be able to use this as evidence of their proficiency in English.

One of the ways in which we would seek to mitigate negative impacts from the removal of self-declaration would be through allowing applicants who have previously been registered as a health or care professional in a listed country, and so will have already had to demonstrate their proficiency in English, to use this as evidence for HCPC registration. We are also proposing to accept evidence of work in an unregulated role in the UK, where this has been supervised by a UK registered healthcare professional.

Further to this, applicants who have studied in countries that are not included on the list will be able to submit a test score from a published list of examination bodies that HCPC would maintain. Our test score requirements would remain the same[1].

We will not be changing our requirements for the level of English that an applicant must have but will look to change the ways this can be evidenced.

We have sought wide stakeholder input into the development of these proposals and held a public consultation to gather further views.

*Consideration of key impacts*

We are aware of the potential impact of our changes. We will need to assess the relative accessibility of English language tests, make sure that they take account of differences in learning and cultural context, and avoid creating disproportionate impacts based upon an applicant's nationality.

A key consideration underpinning implementation of the proposals will be ensuring that we work to reduce the negative impacts for those applicants with one or more protected characteristics. This will include ensuring that the requirements are proportionate, sufficient to ensure registrants can deliver safe and effective practice, and that any additional requirements placed on international applicants are in line with our powers and obligations and managed appropriately. The following sections have more information on this work.

**Who will be affected?**

Should our proposals be approved, once any changes to the English language proficiency process are implemented:

- International applicants will be required to evidence their proficiency in English by passing an approved test, showing a primary qualification gained in a qualifying (majority English speaking) country, or by showing appropriate registered work experience from a qualifying country or supervised work experience in the UK (if and when this proposal is implemented). Those who would previously have self-declared will now need to use one of these routes to evidence their proficiency.

- HCPC employees and partners will need to be aware of the changes in order to follow the process consistently and ensure international applicants are meeting the threshold to gain entry onto the register.

- Employers: a small number of employers have raised concerns about some international registrants' ability to speak English to the required level. The proposed changes would provide additional assurance to employers that overseas applicants have met the minimum standards for registration in working safely and effectively in English.

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[1] For all professions except Speech and Language Therapists, at or equal to IELTS level 7.0 with no element below 6.5. For Speech and language therapists at or equivalent to IELTS level 8.0 with no element below 7.5.

- HCPC registrants or registrants from other statutory regulators in the health and care sector may be asked to sign off on applicants' relevant UK work experience (pending further investigation and development of this proposal, and on the condition that we take a decision to implement it).

- Service users and patients receiving services from our registrants will have greater confidence in HCPC registrants' ability to communicate in English, and to practise safely and effectively.

## Section 2: Evidence and Engagement

Lack of data should not prevent a thorough EIA. Be proactive in seeking the information you need.

**What evidence have you considered towards this impact assessment?**

- We have reviewed Equality, Diversity and Inclusion (EDI) data provided by our registration team and have compared the protected characteristics of registrants across the register as a whole with a subset of international applicants who were registered as of February 2023.

- We have conducted desk-based research into the approach taken by other regulators.

- We have looked at data from the NMC's review of their English language policy.

- We have obtained example qualifying country lists from GMC, NMC and the Home Office.

- We have carried out pre-consultation engagement activities with a range of stakeholders, outlined in more detail in the next section.

- We have requested further information from test providers (IELTS and OET)which will be used to inform our pre-implementation  work, subject to Council approval.

**How have you engaged stakeholders in gathering or analysing this evidence?**

*Preparatory work*

- We held a workshop at the EDI forum on 22 February 2023 to explain to a group of external stakeholders about the changes to the English proficiency process and invite them to share their thoughts on any EDI impacts.

- We held information sessions on the changes to the process (on 19 and 20 April 2023) for contacts from professional bodies, education providers and employers. The changes to the process were explained and initial informal feedback sought to shape our proposals

- We directly sought feedback from professional bodies, education providers and employers in our pre-consultation survey, and a summary has been included in our consultation outcome document.

- We presented on the proposals at our Professional Bodies Quarterly Meeting in June 2023

- We discussed proposals with our Education and Training Committee on 2 August 2023 and sought their feedback.

- We established an internal advisory group, comprising operational and communication colleagues, to gather feedback from them and through them their external contacts.

- We carried out a public consultation on our proposals for the changes to our requirements, and asked respondents to reflect on their impact. Responses were considered and used to further consider the proposals and their implementation.

- During the consultation period, we also commissioned focus group research targeted at service users and carers. A summary of the report from this work is included in our consultation outcomes document, and a full copy will be published alongside it.

*Planned work*

- We will continue to seek feedback from external stakeholders including professional bodies, overseas applicants, and employers, through our standing meetings and on an ad-hoc basis where necessary.

- Our Policy and Standards and International Registration teams will develop the necessary materials for implementing the proposed changes to our requirements. These will include requirements for qualifying countries and approved test providers, resulting lists of each, as well as new forms and guidance, and changes to our IT architecture. The findings of the EIA will be considered in all parts of this process.

- Our International Registration team will monitor the statistical impacts of any adopted changes and report on these to the Education and Training Committee for consideration of any further action.

- Once the full set of proposals have been in force for one year, we will report to the Education and Training Committee on the impacts of the new requirements and any further strategic or policy changes required.

## Section 3: Analysis by equality group

**Age** (includes children, young people and older people)

The following table provides a breakdown of the age cohorts for our international applicants and registrants.

| Age group | Percentage of Int applicants | Percentage of the register |
|---|---|---|
| 20-29 | 23.8% | 19.15% |
| 30-39 | 40.5% | 30.1% |
| 40-49 | 26.5% | 24.46% |
| 50-59 | 8.11% | 18.91% |
| 60-69 | 1.8% | 7.17% |
| 70+ | 0.18% | 0. 89% |

The largest age cohort applying via the international registration route is currently the 30-39 age band. However, this age band makes up a smaller part of the total register, which is more skewed towards older age groups.

Professionals at the start of their careers (most likely to be in the 20-29 age group and the third largest age group in terms of international applicants) and students are more likely to be on a low wage, no wage at all, or in receipt of a student loan. We believe they would be more likely to be negatively impacted by our proposals, which may result in more applicants being required to take a standardised test. Additionally, some applicants may need to repeat a test to achieve scores at sufficient level, increasing their costs.

Evidence suggests that older people, including applicants at the higher end of the age brackets, may be less likely to be able to pass a standardised test.[2] Removing self-declaration and expecting more applicants to submit test scores may negatively impact older applicants.

A few consultation responses noted that whilst older people may statistically be less likely to be able to pass a test, younger applicants may have a disadvantage in that they may not have had as much of a chance to carry out the relevant work experience. They also may be less likely to be able to afford lessons in order to improve their English to take a test.

*Mitigations*

For both reasons we have sought to minimise the number of people who would now have to sit a test, by proposing a list of qualifying countries.

Our consultation asked respondents to make recommendations to mitigate these concerns and identify any other age-related impacts.

**Disability** (includes physical and mental health conditions. Remember 'invisible disabilities')

Below we have laid out some statistics about international applicants declaring themselves to have a disability, and how their numbers compare the register as a whole.

| Disability status | Percentage of international applicants | Percentage of the register |
|---|---|---|
| International applicants who have declared themselves to have a disability | 1.23% | 5.41% |
| International applicants who have not declared a disability | 96.55% | 91.56% |
| International applicants who preferred not to say | 1.42% | 2.88% |
| No information | 0.8% | 0.14% |

Based on the above data, international applicants appear to be less likely than people on the register generally to declare having a disability. This could be due to their age profile, as international applicants are generally younger and so less like to have developed an age-related health condition.

There may also be cultural issues for some international registrants that mitigate against making such declarations. Likewise, it is possible that there are factors which restrict disabled people entering professions in some other countries. International applicants may also be less familiar with the definitions of disability or health conditions used in the UK and so less likely to regard themselves as meeting the definition. Lastly, though EDI data from applications is kept separately from assessors and is subject to strict data governance policies, they may nevertheless be unwilling to trust a regulator with this information because they fearing that it may disadvantage their application to join the register.

Consultation responses considered the impact of the changes on applicants with this protected characteristic. It was suggested that those with a physical disability may find getting to a test centre difficult and may therefore be impacted by the changes.

Responses also emphasised the importance of HCPC in compiling their list of test providers, and that HCPC would need to ensure that test providers chosen have sufficient support in

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[2] Assessment of Age-related Changes in Cognitive Functions Using EmoCogMeter, a Novel Tablet-computer Based Approach - PMC (nih.gov)

place for those with neurodivergent and mental health conditions within their testing programmes. Those applicants who have stammers or communication aids may also be disadvantaged by speech assessments.

*Mitigations*

One challenge identified in developing our proposals is that we need to ensure that applicants with disabilities are not disproportionately disadvantaged.

We will need to make sure that any English language tests delivered by test providers on our maintained list are accessible and that any specific support arrangements are not prohibitively priced or do not create further obstacles for applicants with disabilities.

We have researched reasonable adjustments offered by one of the most popular tests that we currently accept, IELTS.

- To ensure that applicants' English language proficiency is fairly assessed IELTS provide a range of options including: braille papers, lip reading versions of the listening tests, and special arrangements for those with dyslexia, some medical conditions and specific learning disabilities.[3] Candidates can request these special arrangements up to six weeks' prior to taking their test.

- They also offer an online version of the test, 'IELTS Online'[4], allowing candidates a choice between doing it in person or online. While the option of an online test is realistically only suitable for candidates with suitable IT equipment and stable internet, it does offer support for those unable to travel to a test centre for health or disability reasons; it can also reduce their costs. It is not available in every country where IELTs operate, however many of the countries where it is available are ones where English is not the majority spoken language and so it could aid applicants from those countries in the future.

One of the criteria that we propose considering when compiling the list of acceptable tests will be the reasonable adjustments provided for applicants who need them. We recognise that our proposals will mean in principle that more applicants will be required to take a proficiency test and so it will be important to ensure that the route is as accessible as possible.

**Gender reassignment**

We have included statistics on gender and gender identity below.

| Gender orientation | Percentage of international applicants | Percentage of the register |
|---|---|---|
| International applicants whose gender identity matches the one they were assigned at birth | 97.2% | 97.12% |
| International applicants whose gender identity does not match that which they were assigned at birth | 0.31% | 0.22% |
| Prefer not to say | 1.51% | 2.32% |
| Prefer to self-describe | 0.05% | 0.09% |

On each of the headings we monitor for this protected characteristic, the proportions of international applicants are fairly aligned to those on the register as a whole. Existing registrants are around twice as likely to select 'prefer not to say' or to self-describe their

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[3] Special requirements (ielts.org)
[4] IELTS Online

gender, but the percentages of people selecting these options is so low, that it is difficult to draw conclusions from these comparisons.

Registrants transitioning may be negatively impacted by the changes in the English proficiency process if strengthening the need for a test and consequently increasing their application costs reduces the funds they have available during the application process, for instance if they need to work fewer hours during their transitioning and so receive less income.

One consultation response noted that applicants who have undergone gender reassignment may be disadvantaged by having to provide proof of name changes for identity checks which may incur a further cost.

*Mitigations*

Our main mitigation against additional cost would be the introduction of a qualifying countries list, which will minimise the number of applicants who will need to sit a test. In respect of those applicants who will need to sit a test, we have asked test providers to share information on any arrangements they have to support applicants in this situation. Once we have this information, we will see how best to work with the providers in promote their use to potential applicants.

We have also investigated whether the proposal will make the application process harder for those who have transitioned and changed their name and gender since they completed an English test. Currently when an applicant presents with a different name to their supporting documentation, we require them to provide a certified document which confirms the change.

We believe this approach would be sufficient for the new process and would ensure that we can effectively verify their identity while minimising as far as practicable the burdens on these applicants.

**Marriage and civil partnerships** (includes same-sex unions)

Information on marriage and civil partnerships is included in the table below:

| Marriage status | Percentage of international applicants | Percentage of the register |
|---|---|---|
| Married | 51.15% | 48.33% |
| Never married or entered a civil partnership | 37.81% | 36.13% |
| Divorced | 2.28% | 5.31% |
| Separated but still legally married | 0.68% | 1.09% |
| In a civil partnership | 1.27% | 1.07% |
| Prefer not to say | 5.61% | 7.16% |

The marital status declared by most international applicants is broadly in line with that declared by those on our registrants.

*Mitigations*

No differential impacts have been identified specifically relating to registrants who are married or in civil partnerships and so no mitigations have been proposed. We sought feedback on equality impacts in our consultation and will ensure any identified impacts are considered in our analysis and response.

**Pregnancy and maternity**

From our sample review

- 85.82% of international applicants declare themselves as not falling within the protected characteristic category of pregnancy and maternity, compared with 89.3% of the register as a whole.
- 6.38% of international applicants declare being in this category, compared to 5.09% for those on the register.
- 6.95% of international applicants selected 'prefer not to say' for this category compared to 5.34% for those on the register.

Therefore, the makeup of international applicants is broadly in line with the professionals already on our register for this protected characteristic.

Registrants who are pregnant or who have childcare responsibilities may be negatively impacted by the changes to the process if, for instance they need to work fewer hours as a result of their pregnancy or responsibility and so receive less income and consequently have less funding available to take a language test.

They may also face challenges with securing childcare arrangements and finding time to study for the test, especially if they are required to retake them. They may also have difficulty securing childcare arrangements whilst taking the test, especially if the test centre is far away from where they are living.

This is something that was also picked up on in the consultation responses, noting that circumstances may mean a lower income and may disadvantage those who now have to take a test.

The mitigations outlined within our wider proposals (i.e., accepting evidence around registration and work experience) may also be harder for someone who has childcare commitments, is pregnant or breast feeding or is currently on maternity leave, as they may not have experience gained within the timeframe, as they are more likely to have been out of work for a period of time.

*Mitigations*

As time pressures are likely to be a key issue for this group, if we implement the proposals for accepting evidence based on registration or work experience, there may be a specific need for extending the periods of time to apply  where someone has been pregnant or has recently had children.

We will need to ensure that tests on our maintained list are accessible for applicants who are pregnant or have childcare responsibilities, and that any specific support arrangements are not prohibitively priced or create further obstacles for these applicants.

We have researched the support offered by one of the most popular tests that we accept, IELTS:

- To ensure that applicants' proficiency is fairly assessed IELTS provide a range of options for those who are infant feeding.[5] Candidates can request these special arrangements up to six weeks' prior to taking their test.

- They also offer an online version of the test, 'IELTS Online', allowing candidates a choice between doing it in person or online, which allows some flexibility for those with childcare arrangements.[6] While realistically it is only suitable for candidates with IT equipment and stable internet, it does offer support for those unable to travel to a test centre; it can also reduce their costs. It is not available in every country where IELTs operate, however many

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[5] Special requirements (ielts.org)
[6] IELTS Online

of the countries where it is available are ones where English is not the majority spoken language and so it could aid applicants from those countries in the future.

Adopting an exhaustive list of tests we recognise as proposed would mean drafting criteria to ensure that any tests adopted ensure equal treatment, inclusion and accessibility as part of their offer. These aspects would therefore form part of the considerations of our Education and Training Committee in adopting a new list.

**Race** (includes nationality, citizenship, ethnic or national origins)

We have provided comparative information on race (and its associated legal subcategories) below:

| Racial identification | International Applicants | Register as a whole |
|---|---|---|
| Asian or British Asian | 38.02% | 11.46% |
| White | 35.49% | 76.04% |
| Black, African, Caribbean or black British | 17.06% | 5.57% |
| Other ethnic group | 3% | 1.42% |
| Mixed or multiple ethnic groups | 1.99% | 2.12% |
| Prefer not to say | 3.66% | 3.27% |

International applicants are significantly more likely to be classified as being BME (using standard UK data recording categories) than people on the register as a whole, owing to the countries from which most international applicants apply (most prominently India and Nigeria).

As the proposed changes will only affect international applicants, they are more likely to affect applicants who do not identify as white under our EDI categories. Currently just over a third of international registrants select 'white' to describe their ethnicity.

We would therefore expect any change to our English language requirements to be more likely to negatively affect people that would be categorised as BME through our application process, as they would no longer be able to self-declare and would have to use other means to evidence their English proficiency.

However, our view is that our legislation requires us to prescribe requirements for English language proficiency for international applicants, and that any means we use to achieve this will adversely affect some people based on their nationality, which also brings into scope considerations around ethnicity.

We feel that our proposals are proportionate and in line with our obligations to ensure that professionals on our register are capable of safe and effective practise in the UK. However, we will also seek as far as practicable to mitigate any negative impacts.

We should also note that several of the countries we are proposing to be on the 'qualifying countries list' have majority populations that would be classified as BME in the UK, and so ethnicity alone will not be a determining factor when the proposals are considered in the round.

Responses to the consultation made mention of the fact that those from a minority ethnic background make up a high proportion of bank-only workers who may find evidencing their work experience difficult. Applicants may find relying on testimonials from a single source could create risks of bias or discrimination.

*Mitigations*

Our proposals would see the creation of a list of countries where English is the majority spoken language (i.e., where 75% of the population speak English as a first language). Applicants who

have obtained their primary qualification in one of these countries, or who have practised in a regulated role within one of these countries, or have worked in a registrant supervised role within the UK would be able to use this as evidence of their English language proficiency. Adopting this approach would mean our process would consider applicants based on the country in which they have obtained their primary qualification or experience.

Using this approach would also mean applicants' individual background or nationality would not be directly considered; rather the approach would be based on the percentage of English speakers in the country where they have studied or worked and not where they were born or brought up.

This change is likely to have a positive impact on those who live in a majority English speaking country but speak a different language as their 'first language' and therefore would be unable to rely on the self-declaration method in our current arrangements.

We are confident that the mitigations proposed, such as not asking applicants to resubmit evidence of their English proficiency if they have already done so in another majority English speaking country, will reduce financial and administrative burdens now placed on international applicants.

We have also spoken to some large test providers about the support they offer to applicants taking tests. This includes access to practice papers and mock exams and accessible options in where the test is taken.

We believe that removing self-declaration and relying more on approved English tests is a proportionate means to balancing the demands placed upon applicants against meeting our statutory objective of protecting the public and ensuring safe and effective practice.

**Religion or belief** (includes religious and philosophical beliefs, including lack of belief)

We have provided information on religion of belief as below:

| Religious or philosophical belief | Percentage of international applicants | Register as a whole |
|---|---|---|
| Christian | 52.04% | 40.95% |
| No religion / strong belief | 15.37% | 39.6% |
| Hindu | 12.49% | 2.92% |
| Muslim | 8.56% | 4.22% |
| Spiritual | 1.43% | 2.2% |
| Buddhist | 1.13% | 0.75% |
| Jewish | 0.63% | 0.59% |
| Sikh | 0.32% | 0.48% |
| Prefer not to say/not recorded/other religion or belief | 8.04% | 8.29% |

From the available data international applicants are considerably more likely to have religious or strong philosophical beliefs than people already on the register.

As such, those with religious beliefs are likely to be affected by the proposals, albeit indirectly, i.e., if they did not train in a country on the list and are required to take a test.

Furthermore, consultation responses noted that applicants with a strong religion or belief may find it harder to access forms of education due to discrimination in their home country.

*Mitigations.*

We have not identified any specific mitigations for this category.

We will review access considerations made by test providers for people needing to observe religious requirements, such as ensuring that tests do not take place on religious holidays days, as part of the next stage of this work.

**Sex** (includes men and women)

On our register, 72% of registrants are female and 26% are male. Those who prefer not to say make up 2% of our register.

This compares with 58% female and 41% male of international applicants. Those who prefer not to say made up 1% of international applicants.

Female applicants are paid less on average (via both national and international routes)[7] with the gender pay gap currently assessed at 7.9% between genders. Female applicants are therefore more likely to be negatively impacted by the proposals, as they need to pay for tests rather than making a self-declaration if their primary qualification or work experience is from a country not on our list. Available evidence also indicates[8] that women are more likely to be carers (of children, partners or relatives with ill-health or disabilities) which can impact on their available funds.

As set out above (see pregnancy and maternity), registrants who are pregnant or who have childcare responsibilities may be negatively impacted by the change in process if they need to work fewer hours and so receive less income. Women are also more likely to have been out of work for large periods of time due to these commitments, and so some of the mitigations we have suggested in accepting relevant work experience may not be applicable to them.

It should also be recognised that the figures show that men make up a disproportionate number of international applicants in comparison with the figures on our register and so our proposals would disproportionately affect them. Again, this is also true of existing policy, would be true of any potential change, and is in line with our legislative obligations and standards requirements.

*Mitigations*

We have not identified any specific mitigations for this category, in particular where English tests are required as an objective test of proficiency. However, mitigating barriers related to potential cost was a motivating factor in introducing other elements of our proposals, such as the qualifying countries list, previous registered work experience in listed countries, and registrant supervised work in the UK

**Sexual orientation** (includes heterosexual, lesbian, gay, bi-sexual, queer and other orientations)

| Sexual orientation | Percentage of international applicants | Register as a whole |
|---|---|---|
| Heterosexual/straight | 88.51% | 87.83% |
| Bisexual | 1.53% | 1.96% |
| Gay men | 1.3% | 1.32% |
| Gay women | 0.64% | 1.43% |

Applicants with qualifications from countries where homosexuality is criminalised may be

[7] Gender pay gap in the UK - Office for National Statistics (ons.gov.uk)
[8] Full story: The gender gap in unpaid care provision: is there an impact on health and economic position? - Office for National Statistics (ons.gov.uk)

affected by this change. They may not earn as much as their heterosexual counterparts and have specific emotional or mental health needs as a result of this discrimination in those countries. This was also an issue picked up through the consultation, as responses made mention of how applicants may find it harder to access forms of education due to discrimination in certain countries.

Applicants in this category not from a majority English speaking country may find it harder to get onto the register if they can no longer rely on self-declaration and are required to take a test.

*Mitigations*

We have not identified any specific mitigations for this category.

**Other identified groups**

*Socio-economic background*

Applicants from lower income backgrounds are a key group to consider. Some applicants from this background may be negatively impacted if they are less able to afford the cost of taking a test or are unable to afford the cost of a retake if they do not achieve a required score.

This group overlaps with most protected characteristics, although women, people from black and minority ethnic communities, disabled people, younger workers, and those working part-time or irregular hours (for example due to having caring responsibilities) are those groups that are also in this category most likely to be negatively impacted by the proposed changes if it they are required to use the testing route to join the register.

However, despite the potential narrowing of options that our proposals would introduce, we also anticipate that some of our mitigating options may help some applicants in this group. Those who have already registered in an English-speaking majority country would not be asked to provide further proof of their proficiency in English, and any applicant who had completed the relevant work experience in the UK would be able to use this to evidence their ability to practice safely and effectively in English.

*Refugees and asylum seekers*

People with refugee status can make a refugee application to join our register. Recognising the particular circumstances of refugees, we ask these applicants to submit as much supporting evidence as possible and a letter explaining why any other documents cannot be supplied. Refugees do not need to pay a scrutiny fee with their application.[9]

The impact upon refugees was noted in consultation responses. One respondent asked whether it was possible for refugees to gain provisional registration whilst they take their English test or gain the relevant work experience.

We currently allow refugees to make a self-declaration of their English language proficiency, and so if we removed self-declaration for all applicants this would also affect refugees. We will continue to consider the impacts of our proposal for this group.

*Cultural differences*

Some of the responses to the consultation questioned whether the cultural aspects of practising in the UK would be covered within language tests. This is not necessarily something that we would seek to address with our selection of suitable English language tests, but something to consider at employment and recruitment stage.

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[9] Eligibility to apply for registration | (hcpc-uk.org)

**Four countries diversity**

We will be engaging stakeholders across the UK nations to seek their feedback on our proposals. Any issues identified through our consultation and engagement process that are specific to any of the UK nations will be carefully considered and responded to.

## Section 4: Welsh Language Scheme

**How might this project engage our commitments under the Welsh Language Scheme?**

We have found no evidence to suggest that our proposed changes would be affected by our Welsh language obligations, including under the new Welsh Language Standards. Those training within the UK would use the UK registration route and would not be subject to English language requirements to join the register, even if their first language is Welsh. This is because the legislation that underpins our Rules only states that applicants who have trained outside the UK must meet the prescribed levels of English in order to practise safely and effectively and gain entry to the HCPC register.[10]

The HCPC is a UK-wide regulator and so must prescribe levels of language competency to be able to practice across the whole of the UK, so any changes will apply on a UK-wide basis.

Some responses to the consultation made mention of the use of the Welsh language across the UK, and questioned why applicants must prove their English language proficiency when they may use other languages when recruited, in particular Welsh. However, this is mitigated by our legislation– all HCPC registrants must have a prescribed level of English.

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[10] The Health Professions Order 2001 (legislation.gov.uk)

# Section 5: Summary of Analysis

**What is the overall impact of this work?**

We expect the proposed changes to have overall positive impacts, providing clarity and consistency for international applicants by removing *ad hoc* challenges to self-declaration and improving clarity about which tests we would accept.

The proposals place the emphasis on objective criteria, such as academic achievement and professional experiences, insofar as they overlap with residency rather than on family background.

They will also benefit those who speak English with the proficiency required in majority English speaking societies, even if English is not their first language.

We acknowledge that there are likely to be negative impacts for some applicants. Nationality and therefore race are linked to English proficiency requirements, and those seeking to join the register through the international route who do not meet the new criteria will be disproportionately impacted.

However, we believe that the changes are necessary to ensure we can continue to meet our public protection obligations. We believe the proposals to be proportionate and have proposed several mitigating measures to reduce or minimise the negative impacts.

Specific considerations

We have recognised in developing this EIA that the proposed changes may negatively impact applicants with one or more protected characteristics, particular those who are earning less due to childcare commitments, on lower earnings due to socio-economic factors, undergoing gender transition, working part time, or living with a disability or long-term health condition that reduces their earning capacity.

A key negative impact across all the protected categories will be the extra costs placed on international applicants who will no longer be able to make a cost-free self-declaration.

A key positive impact of these proposals, including in relation to equalities and protected characteristics, is that they will provide further assurance on the integrity of the register, which performs a vital function supporting the delivery of safe, effective and high-quality health and care services across the UK.

It is important to remember that policy concerning who can join our register affects the public and service users as well as applicants and registrants. The register is relied upon as a record for professionals who meet our standards and can provide safe and effective practice, and so these proposals will contribute to ensuring the public is assured professionals can meet the required standard of English proficiency.

The fifteen professions we regulate provide a range of health and care services to the UK population, and importantly to people at greater need of care because of their protected characteristics, such as disabled people relying on physiotherapy services, pregnant women, or older people relying on audiology services.

# Section 6: Action plan

Summarise the key actions required to improve the project plan based on any gaps, challenges and opportunities you have identified through this assessment.

Include information about how you will monitor any impact on equality, diversity and inclusion.

**Summary of action plan**

Our initial proposals were informed by our pre-consultation engagement sessions directed at stakeholder organisations, and the survey which followed. We sought views on our proposals were during our consultation period and used these to consider the potential impacts, and any proportionate mitigations. They will also be used to inform the detail of our work during the implementation phase, and to direct or monitoring and review processes once any proposals have been adopted.

In pursuing alignment with other regulators in health and social care, our proposals aim to create a balanced system which is robust, clear and fair. In addition, we will seek to minimise and mitigate any adverse impacts.

During the consultation phase, we undertook the following actions to review and improve our proposals where necessary:

- We carried out a full public consultation on our proposals, supported by further stakeholder engagement. The consultation asked respondents a series of questions to obtain feedback on our proposals.

- We sought input from groups of people who share specific protected characteristics and organisations that represent them about the impacts of the proposals in respect of their protected characteristics as well as seeking general feedback on these issues from employers, professional bodies, and service users.

- We commissioned independent focus group research with service users and carers, which was recruited to ensure a diverse group of respondents and to generate responses which could tell us about potential equality impacts and related concerns held by participants.

- During the consultation period, we attended HCPC's EDI forum in order to take informal feedback on how the proposals might impact a range of individuals and groups, and to encourage participants to make a formal response.

- We also presented on the proposals and took feedback at HCPC's Joining the UK Workforce events, aimed at registrants who had recently joined the register using the international route.

- We created an action log to assess and record issues that arise during the development of the consultation. The log included issues or suggestions for change, identifying their origin and status and will be used in the operational planning of the proposals once finalised.

- We will consider this content alongside consultation responses and redraft our policy with any appropriate changes to make sure that all practical mitigations are pursued, on the basis that they guarantee proficiency levels that support safe and effective practice on behalf of service users.

**Next steps**

- If our proposals are accepted, we will continue to monitor the protected characteristics of people who apply to join our register using the international route, and will review these on a regular basis to identify any emerging trends and take appropriate action to redress any negative effects.

- If the proposal to create a list of qualifying countries is accepted, we will research and create this with outside expertise. The list will be maintained, including adding or removing countries, via our existing Governance structures.

- If the proposal to create an exhaustive list of approved test providers is accepted, we will work with those we have approved to ensure they have appropriate adaptations or mitigations in place for people with protected characteristics. We will compare aggregated EDI data on applicants to the tests they choose to submit as evidence, and following this monitoring process we will review findings and report to ETC.

- We will also continue to take feedback from our EDI forum and external informal feedback from any interested parties, with a view to informing any future policy development in this area.

- We will undertake a review of the proposals and their outcomes once they have been in operation for a year, and where necessary and practical, suggest any further changes to ETC.

Below, explain how the action plan you have formed meets our public sector equality duty.

**How will the project eliminate discrimination, harassment and victimisation?**

Maintaining the HCPC's ability to be an effective regulator is key to ensuring that registrants and members of the public needing and receiving healthcare are not subject to discrimination, harassment and victimisation. We do this though education and setting the standards we expect for registrants.  We also take action where necessary through our fitness to practise powers if there are concerns a registrant may not be fit to practice, which can include if there are instances if discriminatory behaviour.

We recognise that some of our proposals may have differential impacts on specific population groups but believe that these are justified in ensuring that we continue to meet our statutory obligations to protect the public.

In developing our proposals, we have focused on objective ways that applicants can evidence their English language proficiency, providing fairness and clarity to international applicants. We are also seeking, where possible, to provide balanced mitigations for applicants applying in differing circumstances.

**How will the project advance equality of opportunity?**

This project will ensure that the HCPC is able to continue to effectively manage the Register such that we can be sure all registrants are able to practise safely and effectively in English to provide high quality healthcare.

Our proposals aim to create new routes for evidencing English language proficiency which, when taken together, create a system which is robust, fair and clear. Ensuring that applicants' ability to speak and practise in English to our required levels will meet our legal obligations in order to protect the public and ensure service users can access high quality and safe care from

our registrants, but aim to do so in a way which is proportionate and minimises unnecessary barriers.

We recognise that our proposals may negatively impact applicants from some groups with one or more protected characteristics applying via our international application route. However, we have worked to mitigate these by providing as many practical options for applicants as possible, by making sure that our requirements rely on clear and objective foundations and standards, and that risk is balanced in as proportionate manner as far as possible.

**How will the project promote good relations between groups?**

In seeking to set more objective requirements for English language proficiency we have aimed to minimise any impacts related to an applicant's background as far as possible, replacing this with objective measures relating to proficiency.

Rather than focussing on an applicant's place of birth or their first language, our proposals address evidence that relates to their likelihood of proficiency, so applicants will now rely on evidence relating to their test results, where their primary qualification was gained, or in the case of the registration / work experience proposal (if this is implemented following further investigation), whether they can show that they are likely to have used English in a comparable professional context.

We feel that a clear set of options that can be trusted to be objective and impartial will help to establish mutual respect between applicants who go on to join the register.

Throughout the consultation and the pre-planning stages, different stakeholder groups will be asked to come together to share their views on the proposals and collaborate on specific issues.

Securing these changes will support equality by maintaining public protection and ensuring positive service outcomes are delivered for the public irrespective of their background, including their protected characteristics.

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| **Reflection completed by: Madeleine Connor, Senior Policy Officer** | **Date: 22 April 2024** |
| **Reflection approved by: Tom Miller, Policy Manager** | **Date: 30 April 2024** |